

**CITY OF DELTONA, FLORIDA
REGULAR CITY COMMISSION MEETING
MONDAY, APRIL 7, 2014**

A Regular Meeting of the Deltona City Commission was held on Monday, April 7, 2014 at the City Hall Commission Chambers, 2345 Providence Boulevard, Deltona, Florida.

1. CALL TO ORDER:

The meeting was called to order at 6:30 p.m. by Mayor Masiarczyk.

2. ROLL CALL:

Mayor	John Masiarczyk	Present
Vice Mayor	Heidi Herzberg	Present
Commissioner	Webster Barnaby	Present
Commissioner	Zenaida Denizac	Present
Commissioner	Fred Lowry	Present
Commissioner	Chris Nabicht	Present
Commissioner	Nancy Schleicher	Present
City Manager	Dave Denny	Present
City Attorney	Becky Vose	Present
City Clerk	Joyce Raftery	Present

Also present: Parks and Recreation Director Steve Moore; Planning and Development Services Director Chris Bowley; Economic Development Manager Jerry Mayes; Deputy City Manager Dale Baker; Acting Fire Chief Robert Rogers; and VCSO Captain David Brannon.

3. INVOCATION AND PLEDGE TO THE FLAG:

Invocation Presented by Commissioner Schleicher – Nick Pizza.

The National Anthem was sung by Madeline Aker, a senior from Deltona High School.

4. APPROVAL OF MINUTES & AGENDA:

A. Minutes:

1. Approval of Minutes – Regular City Commission Meeting of March 17, 2014.

Motion by Commissioner Vice Mayor Herzberg, seconded by Commissioner Lowry to approve the minutes of the Regular City Commission Meeting of March 17, 2014.

Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.

B. Additions or Deletions to Agenda: None.

5. PRESENTATIONS/AWARDS/REPORTS:

A. Presentation – Super Star Student of the Month Certificates for March, 2014.

The Commission presented Super Star Students of the Month certificates for March, 2014.

B. Presentation – Love Your Heart 5K, Presented by Final Mile Race Management.

The Mayor and Commission, Bill Griffin, Halifax Health Director of System Research and Planning, and Final Mile Race Management staff presented a check for \$5,486.73 to the American Heart Association Regional Director Robin Mozingo.

C. Presentation – New Arts & Performance Center presented by Llyod Marcus.

Llyod Marcus, President of Deltona Arts & Historic Center gave a brief presentation on a proposed new Arts & Performance Center.

The Commission discussed permitting problems with the proposed construction site and the Saint Johns River Water Management District, concerns for the preservation of historical items, the high quality of the presentation material, the property being in a flood zone, sewage treatment plant and sewer line infrastructure, current use at the Deltona Arts and Historical Center, prior events conducted at the Center, the Center progressing to the next level, funding expected from the City, the City's financial well-being, the Commission commended Mr. Marcus for having a vision, the City being fiscally responsible, discussing the proposed concept at a Commission Workshop, Deltona having talent that needs a place to perform, recommending Mr. Marcus meet with the economic development community, the City Manager, and with Deltona's Economic Development Manager. The Commission thanked Mr. Marcus for presenting his Arts & Historical Center concept.

6. PUBLIC FORUM – Citizen comments for items not on the agenda.

a) Tim Coll, 1323 Pine Song Drive, Enterprise, Florida, stated that the 25% percent water surcharge for outside the City households financially hurts families and he requested the Commission reconsider the surcharge. The surcharge hurts the community, many residents are on a fixed income, his annual water bill will be over \$1,500 dollars, residents are having a difficult time managing their income now, although State law allows the tax, the Enterprise community cannot vote for City Commissioners which seems like taxation without representation, and he is against the 25% surcharge.

Mayor Masiarczyk replied that water rates are set by Resolution and that the Commission annually reviews those rates.

7. CONSENT AGENDA:

Mayor Masiarczyk read the title of each item on the Consent Agenda.

Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

Motion by Commissioner Lowry, seconded by Commissioner Schleicher to approve Consent Agenda Items 7-A and 7-B.

Motion carried unanimously with members voting as follows: Commissioner Barnaby For; Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.

A. Request for approval of the William S. Harvey Deltona Scholarship Advisory Board's recommendation to add Jerry M. Robinson, M.D. to the Wall of Fame.

Approved by Consent Agenda - to accept the William S. Harvey Deltona Scholarship Advisory Board's recommendation to add Jerry M. Robinson, M.D. to the Wall of Fame.

B. Request for approval of recommendations for scholarship awards from the William S. Harvey Deltona Scholarship Advisory Board.

Approved by Consent Agenda - to approve the 2013/2014 William S. Harvey Scholarship recipients as presented by the William S. Harvey Deltona Scholarship Advisory Board.

8. ORDINANCES AND PUBLIC HEARINGS:

A. Public Hearing - Ordinance No. 02-2014, Zoning Map Amendment for three (3) lots from Mixed Planned Unit Development (MPUD) to the Business Planned Unit Development (BPUD) for the Saxon Sterling Silver project, at first reading.

Commissioner Denizac asked the City Attorney to explain the Quasi-judicial hearing process as it pertains to a change to a zoning application, and Mrs. Vose replied that a Quasi-judicial hearing is equivalent to a court hearing, in that each Commission member would act as a judge, weighing each presentation, and only basing their decision on the application for zoning changes on the range of development that could occur on the property from information presented during the meeting.

Chris Bowley, Director of Planning and Development Services gave a presentation on Ordinance No. 02-2014, zoning map amendments for three (3) lots from the City's Mixed Planned Unit Development (MPUD) to the Business Planned Unit Development (BPUD) for the Saxon Sterling Silver project.

The Commission and staff discussed the request for a change from mast arm traffic signal to a string pole traffic signal, if the Commission can make a mast arm traffic signal a condition of the approval for Ordinance No. 02-2014, putting a mast arm traffic signal in the development agreement, Lot No. 1 right in right out access from Saxon Boulevard having to meet Volusia County requirements, mast arm installation becoming a Deltona standard, Volusia County making the final decision on what type of traffic signal is installed and when it is installed because Saxon Boulevard is a County road, the City approving and installing wire hanging traffic signals in the past, the staff reasons to change the lift station access road from a 14 foot stabilization road to a 12 foot wide paved road, and revisiting the access road width issue with the City's public protection staff to be a 20 foot stabilization road.

Alex Ford, from the law firm of Landis Graham French, P.A., representative for the applicant, the Deltona Retail Investment Group LLC, introduced members in attendance and available to answer questions, he thanked Mr. Bowley for a very thorough and professional presentation, and then he gave a brief presentation on the MPUD existing sites, proposed BPUD rezoning changes, and types of businesses being planned for the lots.

Mayor Masiarczyk opened the public hearing.

- a) Margaret Tilden, 1001 Sterling Court, Apartment 124, stated that she is for the rezoning.
- b) Joe Cotton, 1001 Alabaster Way, stated that he is for the rezoning.
- c) Pat Cotton, 1001 Alabaster Way, stated that she is for the rezoning.

- d) Shirley Toka, 1001 Alabaster Way, Apartment 334, stated that she is against the rezoning.
- e) June Cleveland, 1001 Alabaster Way, Apartment 202, stated that she is for the rezoning.
- f) Dan Lemine, 1001 Alabaster Way Apartment 209, stated that he is for the rezoning.
- g) Carolyn Carl, 1001 Alabaster Way, stated that she is for the rezoning.
- h) Dan Fieberie, 1001 Alabaster Way, stated that he is for the rezoning.
- i) Bernard Choinlete, 1001 Alabaster Way, stated that he is for the rezoning.
- j) Theyo Elam, 2449 Derby Drive, stated that he is for the rezoning.
- k) Nick Jindal, 2801 Corrigan Drive, stated that he is for the rezoning.
- l) Susan Little, 1089 Platinum Court, stated that she is against the rezoning.
- m) Robert Desmond, 811 N. Midland Drive, stated that he is for the rezoning.
- n) Tracey Sandell, 2369 Sedgefield Avenue, stated that she is for the rezoning.
- o) David Stautihar, 1201 Abigail Drive, stated that the rezoning and a development of a Wal-mart in the area has many issues that need to be researched.
- p) John Pike, 1032 Pearl Tree Road, submitted a petition against the rezoning, and he stated that he is against the rezoning.
- q) Peter McNichol, 1041 Pearl Tree Road, stated that he is against the rezoning.
- r) John Cucura, 1089 Pearl Tree Road, stated that he is against the rezoning.
- s) Leslie Premo, 1098 Pearl Tree Road, stated that she is against the rezoning.
- t) Harvey Oretsky, 1671 Emerald Green Court, stated that he is against the rezoning.
- u) Daniel Dudley, 1089 Pearltree Road, stated that he is against the rezoning.
- v) David Dawson, Sterling Park Homeowners Association President, 1698 Sterling Silver Boulevard, stated the association members are for the rezoning of Lot No. 1, but are against the rezoning of Lot Numbers 2 and 4.
- w) Stephen Bacon, 257 Bayou Circle, stated that he is against the rezoning.
- x) Bill Brazee, 1057 Platinum Court, stated that he is against the rezoning.
- y) Veronica Kennedy, 3237 Tealwood Terrace, stated that she is against the rezoning.
- z) John Wannamaker, 1019 Town Center Drive, stated that he represents Florida Hospital who is committed to coming to Deltona.

Mayor Masiarczyk closed the public hearing.

The Commission and staff discussed Lot No. 1 currently being zoned C-1 commercial use under the MPUD and Florida Hospital being able to build on Lot No.1, the curve in Saxon Boulevard prior to Lot No. 2 not being the best location for non-residential to build, local roads feeding to I4, travel speed and traffic mobility design in the area, placing a traffic light in the area to help control traffic flow and speed, a traffic light at Saxon Boulevard and Sterling Park Boulevard being a must, types of non-residential uses of the lots under the current MPUD, no hourly operation restrictions under the current MPUD, current height restrictions being 36 feet or three (3) stories, responsibility for repair and maintenance of sidewalks being transferred to property owners when property is sold, buffer wall location for Lot No. 1, access to Lot No. 2 and 4 would be off Alabaster Way and Saxon Boulevard, the City not being able to deny a retail grocery store to be built on Lot No. 1 as long as it fits into the MPUD zoning requirements and the ramifications if the Commission turns down such a request, the Commission addressing the issue of rezoning only and not whether a Wal-Mart is being built or not, joint access being on Saxon Boulevard, the City would work with Volusia County's traffic engineers on the timing of when a traffic light would be installed, requiring a construction access point, the City's prerogative to place a requirement in a development agreement to require a traffic light be installed before construction begins, whether or not to put amendments in the motion, a PUD being a negotiated developers agreement, Florida Fish Memorial Hospital being committed to coming to Deltona, having an executed contract with the developer for Lot No. 1, but can build on either lot location, Florida Hospital's current contract being tied to and dependent on the requested BPUD, reasons for the requirement of eight (8) foot wide sidewalks as compared to five (5) foot sidewalks, the traffic study being 4,700 not 47,000 cars a day, having a median on Saxon Boulevard to allow cross access which saves having to put in one (1) entrance in the area, and emergency vehicle access not being affected by the proposed BPUD.

Mrs. Vose stated that because the Commission members are participating in a Quasi-judicial hearing any ex parte communication received by the Commission needed to be disclosed. The Commission discussed types of communications received and that the Commission providing no responses to those communications, and any meetings attended that may have been germane to the rezoning. Also discussed was the Commission only basing their decision on what was discussed at the public hearing and what procedure to use for approving or disapproving the motion, making a motion for Option No.2 to include modified amendments discussed at the public hearing, and discussing the details of a development agreement at a workshop.

The Commission discussed when to have a traffic light installed and working out the installation with Volusia County, installation of a mast arm traffic light being preferred and fitting better into the aesthetics of the community, addressing certain issues during a final site plan application, eight (8) foot sidewalks being a must, the pros and cons of businesses being allowed to operate for 24 hours, Wal-Mart acting irresponsible and inappropriately by putting a sign up and posting to their webpage that a Wal-Mart store was coming to Saxon Boulevard, which gave residents a false impression that a deal had already been made, and concerns about addressing area resident's issues.

Motion by Commissioner Nabicht, seconded by Vice Mayor Herzberg to approve Ordinance No. 02-2014, a rezoning of the Saxon-Sterling Silver lots 1, 2, and 4 from MPUD to BPUD, to include the following modified amendments to the Development Agreement: mast arm traffic signal, eight (8) foot wide sidewalk(s) along Saxon Boulevard, address hours of operation at the time of the Final Site Plan, and only Option 2 of the Master Development Plan, at first reading.

City Attorney Becky Vose read the title of Ordinance No. 02-2014.

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, REZONING LOTS 1, 2, AND

4 AND TRACTS “B” AND “C” AND ROAD “B” OF THE RETIREMENT COMMUNITY AT STERLING PARK MPUD SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 53, PAGES 59 AND 60 OF THE PUBLIC RECORD OF VOLUSIA COUNTY, FLORIDA, FROM MIXED USE PLANNED UNIT DEVELOPMENT TO BUSINESS PLANNED UNIT DEVELOPMENT, LOCATED ALONG SAXON BOULEVARD AT AND NORTH OF THE INTERSECTION OF STERLING SILVER AND SAXON BOULEVARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Motion carried with members voting as follows:

Commissioner Barnaby	Against
Commissioner Denizac	Against
Commissioner Lowry	Against
Commissioner Nabicht	For
Commissioner Schleicher	For
Vice Mayor Herzberg	For
Mayor Masiarczyk	For

The Commission discussed making decisions that are best for all residents of Deltona, the need for medical facilities in Deltona, additional growth being needed in the community, sending a signal to the development community that Deltona is “Open for Business”, the need for commercial development in Deltona and the effect on some residential areas, not being able to deny what property owners build as long as it is in accordance with zoning, Florida Fish Memorial’s commitment and vision for medical facilities in Deltona, and conducting a proper Quasi-judicial hearing.

Ordinance No. 02-2014 was adopted at 10:43 p.m.

B. Public Hearing – Ordinance No. 04-2014, Zoning Map Amendment (RZ13-009) for eleven (11) parcels located at the northeast corner of the Saxon Boulevard/Finland Drive intersection, at first reading.

The Commission discussed lots involved in the rezoning, and Racetrack being the contract purchaser after the rezoning.

Mayor Masiarczyk opened the public hearing.

Tom Sullivan, Gray Robinson Law Firm, stated that he represented the Racetrack Corporation who appreciates the Commission’s past decisions and staff’s assistance and would appreciate the Commission’s continued support.

Richard Peach, 529 South Glancy Drive, stated that he is against the zoning map amendment.

Mayor Masiarczyk closed the public hearing.

The Commission discussed Racetrack putting in an on-site septic system until it can hook up to City sewer lines, putting in a drainage buffer, neighborhood compatibility measures that are being taken, the site having to be engineered and permitted, and also having to be permitted by the Saint Johns

River Water Management District for on-site pre and post design.

Motion by Commissioner Nabicht, seconded by Commissioner Lowry to approve Ordinance No. 04-2014, to rezone lots 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and Tract 'K', Block 101, Deltona Lakes, Unit 3, Map Book 25, Pages 105 - 120, from Office Residential (OR) and Public (P) to General Commercial (C-2), at first reading.

City Attorney Becky Vose read the title of Ordinance No. 04-2014.

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING THE OFFICIAL ZONING MAP FOR THE FOLLOWING PARCELS: A TRACT OF LAND, BEING LOTS 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 AND TRACT "K", BLOCK 101, DELTONA LAKES UNIT THREE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 25, PAGES 105 THROUGH 120, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. CONTAINING 3.9 ACRES MORE OR LESS, LOCATED AT THE NORTH SIDE OF THE 2000 BLOCK OF SAXON BOULEVARD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.

Ordinance No. 04-2014 was adopted at 10:52 p.m.

C. Public Hearing - Resolution No. 2014-06, Lakeshore Shared-Use Path Local Agency Program (LAP) Agreement between the Florida Department of Transportation (FDOT) and the City of Deltona (City) to secure design services.

Motion by Commissioner Nabicht, seconded by Commissioner Barnaby to approve Resolution No. 2014-06, the FDOT LAP Agreement, to allow the Lakeshore Shared-Use Path design and City funding of up to 10% of that design.

Mayor Masiarczyk read the title of Resolution No. 2014-06.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, AUTHORIZING THE EXECUTION AND DELIVERY TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION A LOCAL AGENCY PROGRAM AGREEMENT FOR THE LAKESHORE SHARED-USE PATH PROJECT.

Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.

Resolution No. 2014-06 was adopted at 10:58p.m.

- 9. OLD BUSINESS:** None.
10. NEW BUSINESS: None.

11. CITY ATTORNEY COMMENTS: None.

12. CITY MANAGER COMMENTS:

A. Lobbyist Update:

Mr. Denny stated that the Springs Bill reported on during the last Commission meeting is tied up in Committee, has been stripped down a lot, probably will not make it through this year, but may come back next year. There is a push in Tallahassee to come up with a budget to form a committee to look at Enterprise Zones, and possibly bringing Enterprise Zones back next year.

13. CITY COMMISSION COMMENTS:

- a) Commissioner Barnaby thanked the Deltona Public Information Office (PIO) and Internet Technology (IT) staff for its meeting support.
- b) Mayor Masiarczyk mentioned upcoming events being held in Deltona for the upcoming weekend to include the Easter Eggstravaganza, Music in Courtyard, and Relay for life.

14. ADJOURNMENT:

There being no further business, the meeting adjourned at 11:02 p.m.

John Masiarczyk Sr., Mayor

ATTEST:

Mitch Honaker, Deputy City Clerk